

Lower Mississippi River Waterway Safety Advisory Committee Bylaws

ARTICLE I AUTHORITY

As provided for in section 19 of the Coast Guard Authorization Act of 1991, (P.L. 102-241) as amended by section 621 of the Coast Guard Authorization Act of 2010, (P.L. 111-281), the Secretary of Homeland Security has established the Lower Mississippi River Waterway Safety Advisory Committee (LMRWSAC). The Committee shall operate in accordance with provisions of the Federal Advisory Committee Act (FACA) (5 United States Code, Appendix).

ARTICLE II PURPOSE

LMRWSAC provides advice and recommendations to the Department of Homeland Security on matters relating to communications , surveillance, traffic management, anchorages, development and operation of the New Orleans Vessel Traffic Service and other related topics dealing with navigation safety on the Lower Mississippi River as required by the U.S.C.G.

ARTICLE III MEMBERSHIP AND MEMBER RESPONSIBILITIES

Section 1. Composition. LMRWSAC shall consist of 25 members who are appointed by and serve at the pleasure of the Secretary of Homeland Security. Each member shall have expertise, knowledge and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways, including the Gulf of Mexico.

(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the head passes of Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

(2) Two members representing vessel owners or ship owners domiciled in the State of Louisiana.

(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/ Baton Rouge Steamship Pilots

Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.

(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

(8) Two members representing those licensed merchant mariners, other than pilot who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(10) One member representing an environmental organization.

(11) One member from the general public.

(12) One member representing the Associated Federal Pilots and Docking Masters of Louisiana.

The Secretary may request the head of any other Federal Agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department. Such representatives shall not be a voting member of the Committee.

Section 2. Appointment. Members of the LMRWSAC are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Commander of the Eighth Coast Guard District through the Commandant. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to attend in their stead, participate in discussions, or vote.

Section 3. Terms of Office. Members may serve two year terms. A member appointed to fill an unexpired term shall serve the remainder of that term. In the event the committee terminates, all appointments to the committee shall terminate.

Section 4. Certification of Non-Lobbyist Status. All members of LMRWSAC must annually self-certify that they are not registered lobbyists under the Lobbying Disclosure Act, 2 United States Code, section 1603, and must advise the Department of Homeland Security (DHS) if they register as a lobbyist while serving on the LMRWSAC. Members who register as a lobbyist after their appointment or re-appointment will be replaced on the committee. Members appointed to LMRWSAC prior to June 18, 2010, who are registered lobbyists are permitted to

serve the remainder of their term of office. Candidates for appointment must self-certify that they are not registered lobbyists under the Lobbying Disclosure Act. The Designated Federal Officer (DFO) will assure that candidates for appointment are not lobbyists registered under the Lobbying Disclosure Act.

Section 5. Memberships' Responsibilities. Because the membership of the LMRWSAC is constructed to balance as many aspects and viewpoints of the industry as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at committee meetings. The Designated Federal Officer, through the Commandant, shall recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced on the Committee.

Members of the LMRWSAC may be recommended for removal for reasons such as, but not limited to:

- a. Missing two consecutive meetings, or not participating in the committee's work;
- b. Registering as a lobbyist after appointment;
- c. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 6. Restriction on Members' Activities.

- a. Members may not use their access to the Federal Government as a member of this committee for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence.
- b. The Committee as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of LMRWSAC, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.
- c. Members of LMRWSAC are advisors to the agency and have no authority to speak for the Committee, the U.S. Coast Guard or for the Department outside the Committee structure.
- d. Members may not testify before Congress in their capacity as a member of LMRWSAC. If requested to testify before Congress, members of the LMRWSAC:
 - 1. Cannot represent or speak for the Committee, DHS, any agency, or the Administration in their testimony;
 - 2. Cannot provide information or comment on Committee recommendations that are not yet publicly available;
 - 3. May state they are a member of the Committee; and,
 - 4. May speak to their personal observations as to their service on the Committee.

- e. If speaking outside the Committee structure at other forums or meetings, the restrictions in section d. also apply.

ARTICLE IV Officials

Section 1. Chairperson and Vice Chairperson: The Committee shall annually elect by majority vote at its meeting a Chair and Vice-Chair from its membership. The Vice-Chair will act as a Chair in the absence or incapacity of the Chair or in the event of a vacancy in the office of the Chair. The term of office of the Chair and Vice-Chair will be one year.

In addition to chairing LMRWSAC meetings, the Chairperson shall assist the DFO (see section 2 below) in developing meeting agendas and establishing Committee priorities. The Chairperson shall certify the accuracy of minutes within 90 days of the meeting to which they pertain.

Section 2. Designated Federal Officer: The Designated Federal Officer (DFO) serves as the Department's agent for all matters related to the LMRWSAC and is appointed by Commander of the Eighth Coast Guard District. In accordance with the provisions of the FACA, the DFO must:

- a. Approve or call meetings of the Committee and its subcommittees;
- b. Approve agendas for Committee and subcommittee meetings;
- c. Attend all meetings;
- d. Adjourn meetings when such adjournment is in the public interest; and,
- e. Chair meetings of the Committee when directed to do so by the Commander of the Eighth Coast Guard District.

In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:

- a. Notifying members of the time and place of each meeting;
- b. Tracking all recommendations of the Committee;
- c. Maintaining the record of members' attendance;
- d. Preparing the minutes of all Committee meetings, including subcommittee and working group activities;
- e. Attending to official correspondence;
- f. Maintaining official records and filing all papers and submissions prepared for or by the Committee, including those items generated by subcommittees and working groups;
- g. Reviewing and updating information on Committee activities in the Shared Management System (aka, FACA database) on a monthly basis;
- h. Acting as the Board's agent to collect, validate and pay all vouchers for pre-approved expenditures; and
- i. Preparing and handling all reports, including the annual report as required by FACA.

ARTICLE V MEETING PROCEDURES

- Section 1. Meeting Schedule and Call of Meetings. Meetings of the LMRWSAC may be held with the approval of the Designated Federal Officer; it is expected the Committee will meet twice per year.
- Section 2. Agenda. The DFO, in consultation with the Chairperson, shall develop and approve agenda for the Committee and subcommittee meetings, distributes agenda to members prior to the meeting, and publishes the agenda in the Federal Register notice of meeting.
- Section 3. Quorum. The presence of fifty percent plus one member of the appointed committee represents a quorum. A quorum of the committee is required to vote on issues being addressed.
- Section 4. Voting Procedure. Once an issue is brought to a vote, the committee members vote by a show of hands. Submission of recommendations to the agency are submitted by a formal letter from the Chair to the Federal official, by formal report to the Federal official, or through a resolution recorded in the minutes of the meeting.
- Section 5. Minutes. The DFO will prepare the minutes of each meeting and distribute copies to each Committee member. Minutes of open meetings are available to the public upon request. Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the Freedom of Information Act.

The minutes will include a record of:

- a. The time, date, and place of the meeting;
- b. A list of all attendees including members, staff and the public;
- c. An accurate description of each matter discussed and the resolution, if any, made by the Committee;
- d. Copies of reports or other documents received, issued, or approved by the Committee; and
- e. An accurate description of public participation, including oral and written statements provided.

The DFO assures that the Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

- Section 6. Open Meetings. Unless otherwise determined in advance, all meetings of the LMRWSAC shall be open and announced to the public in a notice published in the Federal Register at least fifteen calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. Meetings will include a

period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to LMRWSAC at any time. All materials provided to the committee shall be available to the public when they are provided to the members. Such materials, including any submissions by members of the public, are part of the meeting record.

Section 7. Closed Meetings. All or parts of meetings of LMRWSAC may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the component head issues a written determination that there is justification for closure under the provisions of subsection (c) of 5 United States Code, 552b, the Government in the Sunshine Act (Sunshine Act). Where the DFO has determined in advance that discussions during a committee meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the Federal Register. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chairman will order such discussion to cease and will schedule it for a future meeting of the committee that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the Federal Register at least 15 calendar days in advance. Closed meetings can only be attended by DFO, committee members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

ARTICLE VI EXPENSES AND REIMBURSEMENTS

The Coast Guard, Waterway Management Division of Sector New Orleans, is responsible for providing financial support to LMRWSAC. Expenditures for committee activities must be approved in advance by the DFO. Members may be reimbursed for travel and per diem, and all travel for LMRWSAC business must be approved in advance by the DFO.

ARTICLE VII ADMINISTRATION

The Coast Guard, Waterway Management Division of Sector New Orleans, is responsible for clerical and administrative support to LMRWSAC.

ARTICLE VIII SUBCOMMITTEES

Subcommittees may only be established by the DFO for any purpose consistent with the Committee charter. The Chair (or Vice-Chair) may designate members from the Committee to serve on the subcommittee. The Chair may recommend to the DFO that appropriate non-members be invited by the DFO to serve on a subcommittee. The term of service of the subcommittee member shall be established in the subcommittee task statement.

The subcommittee must be chaired by a member in good standing of the Committee..
Subcommittees may not work independently of the Committee and must report their deliberations, recommendations and advice to the Committee for the full deliberation and discussion by the Committee. Subcommittees have no authority to make decisions on behalf of the Committee or the Agency and may only report directly to the Committee

ARTICLE IX RECORDKEEPING

The records of LMRWSAC, formally or informally established subcommittees or other subgroups of the committee, are handled in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records are available for public inspection and copying in accordance with the Freedom of Information Act (Title 5, United States Code, section 552).

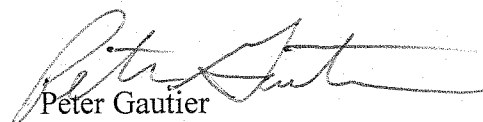
ARTICLE X RECOMMENDATIONS AND REPORTING

LMRWSAC provides advice and recommendations to the Secretary through the Commandant, U.S. Coast Guard, and the Commander of the Eighth Coast Guard District. Recommendations and reports received by the Committee from a subcommittee must be fully discussed, deliberated, and voted on in an open meeting. Reports and recommendations from a subcommittee that have been properly reviewed and accepted by the Committee must be forwarded to the DFO with a cover letter signed by the Chair (or Vice-Chair) indicating the approval by the Committee and any actions recommended by the Committee.

Reports approved by the Committee and received by the DFO must be placed on the Committee's public website. The DFO shall provide a bi-annual report to the Committee, during an open meeting, on the status of any recommendations and reports received by the Committee in the previous two years and what actions have been taken on the recommendations.

ARTICLE XI BYLAWS APPROVAL AND AMENDMENTS

The DFO may amend these bylaws at any time, and the amendments shall become effective immediately upon approval.


Peter Gautier
Captain, U.S. Coast Guard
Designated Federal Officer

Date approved: 1/30/12